

Argument 4: No useful relationship Keheley/Barton

Keheley 's Novelty Club is silent during a golf swing. Keheley did not conceive or invent a design providing the means to detect the initial movement of a golf swing wherein, the club once stationary and adjacent to the ball is subsequently placed in motion in a direction away from the ball. Keheley is silent during a golf swing, therefore there is no practical use for Barton with Keheley to provide an integrated device.

Argument 5. No obvious relationship Barton/Keheley.

Keheley did not conceive, invent or disclose creating a training club that senses the golfers first movement and automatically guides the golfers rhythm with electronically produced sound. Barton did not conceive, invent, or disclose of attaching music to any form of sport implement (i.e. Golf Club). Barton did not conceive, invent or disclose any idea of automated synchronization of playing music to a sport endeavor. Keheley is silent during performance of a golf swing and useless to the teachings of Barton.

Argument 6. Keheley discloses use of digitally stored sound

Keheley claims use of a sound chip as a component of a Novelty Club that produces sound after impacting an object according to Keheley claim 1. The original claim 1 of DeVarney was ambiguous and far reaching as to interfere with Keheley, and has been amended. The sounds produced by either invention could be synthesized, programmed in microprocessor code or generated by analog circuitry. I respectfully submit that the amended claims limit the scope of DeVarney to a specific integrated design of creating a training club that senses the golfers first movement and automatically guides the golfers rhythm with electronically produced sound.

Respectfully, given the Amended Claims and arguments 1-6, it is submitted that patent for the Golf Training Club should be allowed in view of Barton, wherein Barton cannot be useful to Keheley in order to provide an integrated device. . However, the following arguments are offered to further clarify differences between Barton and DeVarney.

Argument 7: Barton creates music, DeVarney creates sound

Barton's method creates music derived from the study of athletic performance. Barton claims a methodology for the creation of music, in 4/4 or 6/8 time, representative of the study of athletic performance. Barton has examples of created athletic songs in Fig. 1-4. DeVarney has created a unique sound, using a combination of musical pitch, volume change and the distinctive swish-click sound produced when a swinging golf club is accelerated and strikes a golf ball. For further illustration of the difference, the sound DeVarney has created (DeVarney Fig 4) could not be written in musical notation as disclosed by Barton. Referring to DeVarney Fig 4 and the waveform portion t1-t2. This is a musical pitch, with a linear decrease in volume of 50% for the duration t1 to t2. The length of the note, t1-t2 is designed to a resolution of 1/100 a second. Musical notation cannot be written to support the waveform of DeVarney Fig 4.

Argument 8: Beat within a beat equated to a striking of a golf ball.

Barton explains how producing a beat within a beat pattern can correspond to an impact event, Barton cites hitting a baseball as an example. The sound produced when a swinging golf club accelerates and strikes a golf ball is a distinctive swish-click. DeVarney uses the "swish – click " sound, not a musical note as a different and superior choice. For illustration, a student practices with DeVarney's invention and attempts to synchronize the sound produced by the swinging club to the electronically produced sound emitted by the club. When the student's swing is in phase with the instructed rhythm, he hears only one "swish –click". If his swing was slightly early or late the out of phase sound is readily apparent. Bartons beat within a beat could be useful for a collision, but would not suffice for the invention of DeVarney.